

**MINUTES
PARK TOWNSHIP
PLANNING COMMISSION**

Park Township Hall
52 152nd Street
Holland, MI 49424

Regular Meeting
Park Township Conference Room
July 8, 2020
6:30 P.M.

CALL TO ORDER:

Chair Pfof called to order the regular meeting of the Park Township Planning Commission at 6:30 P.M., held in the Park Township Conference Room.

ATTENDANCE:

Present: Terry DeHaan, Dennis Eade, Rosemary Ervine, Diana Garlinghouse, David Kleinjans, Denise Nestel, Jeff Pfof,

Staff: Howard Fink, Manager; Greg Ransford, Planner; Dan Martin, Legal Counsel

APPROVAL OF AGENDA:

Motion by Eade, supported by Nestel, to approve the agenda as submitted.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

APPROVAL OF MINUTES:

Motion by Ervine, supported by Eade, to approve the June 10, 2020 Regular Meeting Minutes as submitted.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

NEW BUSINESS:

A. Public Hearings

1. **Anchorage Marine** – Major Amendment, Planned Unit Development Final Plan
Seeking six residential condominium units at 1825 Ottawa Beach Road

Ransford introduced the PUD agenda item. Representatives for Anchorage Marine are present to answer questions about the proposed amendments to the PUD.

Ransford stated that the Anchorage Marine PUD was originally approved in 1985, which pre-dates the current PUD language of the Park Township Zoning Ordinance. Anchorage Marine seeks Final PUD plan approval for six (6) residential condominium units within the second floor of the existing building, as well as within a new third floor. The proposed PUD would also include required open space, parking, and other site improvements. The property is located within the C-2-Resort Service Zoning District. The Planning Commission reviewed the proposal on February 12 and again on May 13.

At the Planning Commission's direction provided at the May 13, 2020 meeting the applicant has revised the Preliminary Planned Unit Development Plan to incorporate Staff and Planning Commission comments. Staff has reviewed the final plan submission and found it complete. Recommendation of approval is appropriate with conditions.

The applicant has the provided different light fixtures and responded to the Planning Commission's requests.

Ransford noted Attorney Bill Sikkel's letter regarding his client's concerns about an existing easement that would be affected by the proposed plan, and his client's request for assurance of a relocated easement for access on the north side of the property to the Anchorage Boat Barn.

Ransford advised that the Planning Commission Considerations for review include:

- Whether the new light fixtures on the balconies are acceptable
- Whether a pedestrian pathway/s should be installed between the Ottawa Beach pathway and the sidewalk adjacent to the building
- Whether a financial surety is necessary

Tracy Hutchinson, Project Manager for Anchorage Marine, gave an overview of the project. The proposal is on existing commercial property with adding six residential condominium units on the upper level of the existing building. They have expanded parking, improved storm water management and provided public open space for residents and along the pathway. Since the last Planning Commission meeting the applicant has received approval from the Ottawa County

Water Resources Commissioner, updated lighting fixtures, and provided other documents necessary to the project.

Jeff Cavanaugh, the owner of Anchorage Marine, described the property as an existing strip mall which he wants to develop by adding six residential condominium units above the commercial use. The second and third floors will house the residential condominium units. Using the same access steps on each side he will have 2nd and 3rd stories with balconies on the lower and upper levels. He wants this to be a significant improvement to the property.

PUBLIC HEARING

Pfost opened the Public Hearing at 6:40 P.M.

Chris Swanders has several boat slips at Anchorage and has a problem with the parking availability. He sees 15 spots up front and with the restaurant he believes they won't have enough parking. There are also parking problems with the business next door. There is another potential problem on the road with the new crosswalk. Traffic goes too fast and doesn't respect pedestrians in the crosswalk.

Ron Slagh is the owner of one of the Anchorage Boat Barn units. He is on the backside and is concerned about access to the get to the back.

Cavanaugh responded that parking has been a problem in the summer with the small building that has nine parking spaces. They don't have dock space so they park boats in that area. He has tried to block people from this business parking on his property by using signs, but it doesn't always work. During the summer his employees will park inside the boat building to free up availability of some of the parking spaces.

Hutchinson said they utilized Township zoning requirements to calculate the parking needs. They have also looked at an easement alternative to provide access to the back of the lot.

Pfost closed the Public Hearing at 6:50 P.M.

Ervine asked Hutchinson to show on the site map drawing what the proposed easement adjustment would be. Hutchinson did so.

Hutchinson said there will be additional spaces to the north and south of the Anchorage Marine property, along with added space in the back. There will be room to maneuver in this space. The current easement is located from the east side to the northeast corner of the property, which cuts close to the proposed building. What they have proposed is to shift the easement down the drive aisle from the building. Access would still be provided to the back corner of the lot. In other words, they would realign the easement to make it more useable and practical. The revised arrangement will provide more parking and available access.

Martin said the easement can be changed only with the approval of the benefitted properties and persons. A new easement document showing that the realigned easement has been granted, signed by all necessary parties, will need to be recorded with Ottawa County and submitted to the Township. The easement can't be unilaterally changed by the burdened property owner. The easement runs with the land. That revised easement document, showing the alternate location and with agreement of parties who benefit from it, must be shared with the Township Board as part of the approval process. The agreed upon realigned easement must precede approval, because the location would impact the availability of the parking within the PUD.

Cavanaugh said he met with Sikkel and explained it will benefit him and his client. They will widen the easement and Sikkel's client was okay with it.

Nestel asked if the signatures should be obtained before the Township Board meeting.

Martin recommended obtaining all the necessary signatures on the easement before the Township Board meeting.

Garlinghouse asked about the concern regarding the new crosswalk. She suggested working with the Ottawa County Road Commission about this.

Cavanaugh said the new crosswalk was installed this spring so people aren't used to it.

Pfost said the Township received a note regarding flooding concerns from Linda Anderson. Pfost said there is an outlet in place for flooding and high water.

Ransford said the Ottawa County Water Resources Commissioner has given approval of the proposed PUD plan. He noted the Water Resources Commissioner reports they are reducing the impervious surface on site so it will lessen the water release. He has talked with the Township Engineer who hasn't assessed the situation yet regarding the potential of a culvert issue under the road because of the amount of water in place at present.

Pfost thanked Ransford for his Staff memo outlining the PUD standards review and the proposed draft language within the Planning Commission Report.

Pfost asked Martin if discussion is required on the Standards of Approval so long as the Planning Commission determines that the applicant has met the standards.

Martin said the Planning Commission could determine to accept the Staff report as the PC's report, and if any of the Commissioners is in disagreement with the Staff report regarding the Standards, then discussion would be necessary.

Ransford noted that the Commissioners do not have to repeat all of the recommendations.

Kleinjans moved, supported by Eade, to approve the proposed PUD with the standards of review conclusions, recommendations, and conditions submitted by Staff. This includes a condition of approval that the easement access requested by Sikkel's client is addressed prior to the Board meeting as Attorney Martin outlined.

Martin will help Ransford with the appropriate wording.

Nestel asked about the Considerations listed on page 27 of the Staff Memo.

Ransford said the list of Considerations has been satisfied.

Kleinjans asked about the necessity for Financial Surety.

Pfost suggested the Township Board can consider this as a recommendation.

Kleinjans asked about the reference to the Prein and Newhof letter in the list of Considerations.

Ransford said the letter was about the storm water facilities and easement area. This was provided previously during the Preliminary Plan review but all the items have been covered. Ransford said he could provide another copy to the Commissioners.

Kleinjans asked about the definition of "short term rental." He recalled the Planning Commission did not want any short term rental of the residential condo units, which would make them less a residential use and more of a commercial use.

Cavanaugh said there would not be any short term rental.

Pfost said the Planning Commission could make this a condition of the PUD.

Martin said, if the Township wants to enforce the prohibition of a short term rental, the Township could make it a condition of approval as to what the minimum length of the term of any rental would be. Also, the condominium bylaws could be modified to clarify what a short term rental should be, and if the Township doesn't want to enforce it, it could be left to the condo association.

DeHaan said the owner shouldn't be restricted in the use of his property, but it should be a reasonable condition. The proposed amendment could be that a short term rental is defined as less than a week. Regulating short term rentals is a different kind of use.

Ervine asked Cavanaugh what his intent is for rentals.

Cavanaugh said he does not know what the neighboring PUD does regarding rentals. He doesn't want to run a hotel.

Ervine asked him if he is proposing less than a week for a short-term rental.

Cavanaugh said his best customers are from Chicago and want a summer place. He doesn't see them renting them out. Cavanaugh asked what is the status quo in the community?

DeHaan advised we should recommend a short-term rental is less than seven days. Less than that period of time he could not endorse. We could modify the PUD to define seven days or less is a short term rental and make it a condition.

Martin said the Township Board has the final say on the PUD approval, so this issue will ultimately be addressed by the Board, but the PC can make its recommendation.

DeHaan moved, supported by Kleinjans, to amend the motion for approval of the PUD, to include the short-term rental definition of less than seven days, which any short-term rental of any residential condo unit is prohibited within the PUD, as a condition of the PUD and shall be recommended to the Township Board for approval.

Kleinjans agreed to the proposed amendment of his motion. Eade agreed. All Commissioners were in consensus.

Roll Call Vote:

Garlinghouse, aye; Ervine, aye; Pfof, aye; Nestel, aye; Kleiinjans, aye; DeHaan, aye; Eade, aye.

Ayes 7, Nays 0. Motion carried.

Pfof said the approval for this PUD, as amended and conditioned, will be forwarded to the Township Board for its approval.

2. Tree Preservation – Chapter 33

Pfof asked Ransford to review this item.

Ransford explained that this is an addition to the code of ordinances, not a modification to the zoning ordinance.

The Township Board requested that the Planning Commission consider development of a tree preservation plan, look at language of other communities, consider an appropriate pathway for appropriate language, and how trees and preservation should be regulated. This included a review of anywhere from private property to commercial development, industrial development, and neighborhood development of two or more lots.

Looking at privately-owned parcels as an example of the proposed document, the Planning Commission suggests language for parcels of a minimum lot size or larger. Those parcels would maintain the trees within the minimum setbacks of front, rear and side yards except for the area to access the lot such as a driveway to the home. If a lot is clear cut for the purpose of farming it can't be used for a different purpose for five years after that as a method to discourage circumventing the language and farm for a day. The language addresses tree stands on the basis of wording in the Master Plan to protect trees in the community and ensure wildlife corridors are preserved without interruption. There is reforestation language for a certain percentage of replacement of trees, as well as buffering for perimeters of commercial and industrial development. There is wording for identification and preservation of roads with aesthetic character and restricting tree removal.

Pfost thanked members of the committee: Ervine, Fink, Kleinjans and Ransford. He also thanked Dan Martin for his contribution to the appropriate language. This was a landmark effort on behalf of the Township. He wanted in the record a note from Linda Anderson supporting recommending the document to the Township Board.

PUBLIC HEARING

Pfost opened the Public Hearing at 7:40 P.M.

There was no comment.

Pfost closed the Public Hearing at 7:41 P.M.

Ervine moved, supported by DeHaan, to approve the proposed Tree Preservation Chapter.

Ervine said this plan will be a positive addition to the Township and appreciated everyone's input to the committee's effort.

Kleinjans noted this was for the public good and the committee members tried to provide a balance for individual rights and the requirements for residents to exercise good judgment and keep trees on the right-of-way in front of their property, plus the 40' in front of their homes, particularly on tree-lined streets.

Garlinghouse asked about removal of a tree on private property. What is the process?

Pfost noted tree stands should not be removed unless absolutely unavoidable. He asked if there was anything in place regarding enforcement of this point.

Howard Fink said under Section 33-3, lots not part of a development, irrespective of corridors, with regard to existing homes, regulation would prevent an existing home cutting down a tree in

the front yard. He cited a section from the ordinance. Is anyone allowed to cut down a tree on an existing lot in an existing subdivision?

Martin asked if the committee wanted Section 33-3 to apply to lots with houses already existing on them, or only to vacant lots. As drafted, the language did not distinguish between a vacant lot or a lot with a house on it.

Martin said that as drafted, a property owner can't cut trees in setback area, front or back or side yard, regardless of whether a house is currently on the lot or not. He asked if the Planning Commission wants language to refer to cutting trees that are not within the buildable area of the lot or within the setback area.

Fink said the question is: in a subdivision is an owner allowed to cut down a tree within the setbacks?

Ervine said you can't take that level of ownership from the owner so long as they follow the rules.

Ransford said if the minimum lot area is 15,000 square feet the mindset was those lots should be large enough to maintain the trees.

Martin said what could be done to address the issue is add language under Section 33-3: In the case of vacant lots not part of a development and any new development you can't remove trees.

Pfost said we could delay action, consider this and bring it back with the Staff writing language reflecting thoughts of the Planning Commission on this issue.

Nestel said the committee would be best equipped to consider this and clean up the language.

Pfost asked for a motion to return this matter to the Tree Preservation Committee.

Ervine moved, supported by Nestel, to return the question of tree removal to the Tree Preservation Committee for development of the appropriate language.

DeHaan moved, supported by Garlinghouse, to rescind his previous motion to adopt the language.

Roll Call Vote:

Garlinghouse, aye; Ervine, aye; Pfost, aye; Nestel, aye; Kleinjas, aye; Eade, aye.

Ayes 7, Nays 0. Motion carried to rescind original motion.

Roll Call Vote:

Garlinghouse, aye; Ervine, aye; Pfof, aye; Nestel, aye; Kleinjans, aye; Eade, aye.

Ayes 7, Nays 0. Motion carried to approve second motion.

Kleinjans moved, supported by Ervine, to return the language in the Tree Preservation Chapter to the committee for final re-write and consideration at the next meeting.

Roll Call Vote

Garlinghouse, aye; Ervine, aye; Pfof, aye; Nestel, aye; Kleinjans, aye; Eade, aye.

Ayes 7, Nays 0. Motion carried.

OLD BUSINESS

A. Master Plan – Public/Open Space Classification

Nestel asked Martin what authority does the Township Manager or the Township attorney have to undo a vote of the Planning Commission. The Planning Commission voted at its last meeting to advance this classification to the Township Board.

Martin said neither he nor the Township Manager have the authority to undo a vote of the Planning Commission. Martin stated that the purpose of the memo is to advise the Planning Commission that after the last Township Board meeting, which was held the day immediately following the Planning Commission's vote on this matter, a question arose about protecting the Township airport property from being sold to a developer in the future. The Township Board rejected the conservation easement that it had originally requested. At that Township Board meeting, Martin and Fink discussed that the Township property could remain identified as open space public use in the Master Plan and be zoned in an open space or recreational zoning district, so that if a future Township Board wanted to sell the property to a developer in the future, the property would need to be rezoned, and because the zoning needs to be based on a plan, they would have to amend the Master Plan as well. Also, there would be a possibility to have a referendum on the zoning amendment, under the current zoning enabling act, for the voters to decide whether the property should be zoned out of the recreational open space district. Following that discussion at the Board, the Manager and the Attorney believed that the direction of the Township Board was different from that of the Planning Commission at last month's meeting. The Manager and the Attorney are not attempting to undo or override a vote of the Planning Commission, but give the Planning Commission an opportunity to reconsider the matter before it goes to the Township Board at tomorrow night's meeting. The Planning Commission can go forward with its prior recommendation, which would then be considered by the Township Board tomorrow night. Martin advised that the prior recommendation from the Planning Commission, however, may not be consistent with the current policy or direction of the

Board, as discussed at last month's Board meeting which was held the day after the Planning Commission vote.

Nestel thought the Planning Commission's vote was nullified.

Fink asked Nestel what does this proposed regulation do? What did the Planning Commission vote on last month?

Nestel said the Planning Commission voted on changes for protecting public spaces and wanted to forward it to the Township Board for review.

Fink asked what was the regulation that was advanced to the Township Board. He said we just went through a complicated tree preservation ordinance where we pointed out an unintended consequence of adopting what was reviewed several times by a subcommittee. The Planning Commission made a recommendation to the Board to protect public open space property.

Nestel read the recommendation at Fink's request.

Fink explained the rationale: the Planning Commission advanced to the Township Board the recommendation to protect open space property. Actually, the result of what the Planning Commission recommended would do the opposite. The recommendation was to master plan the airport residential, and to provide other non-open space uses for other publicly owned open space properties. This was counter to the intent of what the Planning Commission wanted to do, because it would result in less protection rather than more protection for the properties.

Kleinjans explained the intent was to protect open space property if it didn't have underlying zoning and if it was sold we would lose control as to how it would be used.

Fink said this is true for private property, but the Planning Commission's decision and recommendation was for public property as well.

Kleinjans didn't see the difference.

Fink noted that a privately owned property, like Camp Geneva, or even property owned by the public school district, would be different than properties owned by the Township, like Winstrom Park and the Stu Visser Trails, or the publicly owned State Park. There would be a process for not only selling those publicly owned open space properties, but also a process of amending the Master Plan and Zoning Map before they could be used for anything other than open space recreational uses. Fink stated he didn't understand why the Planning Commission would recommend a policy that would allow lesser regulation of a park or open space parcel to be developed as opposed to more regulation, especially when the intent is to protect open space properties. There is an option. It's a policy position.

Kleinjans said he didn't think the Planning Commission was given an option. There is new information we didn't have when we exercised our vote.

Pfost said he was involved in the development of the Master Plan language. We identified public space and quasi-public open space as open space. What we are trying to do is preserve open space. We understand that if we have a parcel like the airport, where there is no use identified in the Master Plan, and it's sold to a private developer, we have no ability to deny a development unless we have underlying zoning that gives us that authority. The underlying zoning for the airport was low density residential, and so the recommendation reverted to zoning for the Master Plan identification as low density residential in the event it became privately owned. Our decision and recommendation did not do as we intended, because this would lead to less protection for open space, and make it easier to develop. Staff brought this to our attention. It is counter to what our intent was. We need to be sure we are in this process correctly to address the issue. This is new information to the Planning Commission.

DeHaan understood if the airport was sold it would be rezoned.

Pfost said underlying zoning and future use in terms of the Master Plan are not the same.

Martin said the zoning ordinance is the law on what the permitted use of property is today. The Master Plan looks into the future as how that property should be used in the future. That does not mean the Township Board can't sell the property in the future. Today, this property is used as an airport and zoned low density residential. If a developer bought this property next week it would have the right under the law to develop it as low density residential without changing the zoning. The Township Board, at its last meeting, asked for input on what can happen to the property and what can be done to keep it zoned and used as permanent public recreation or open space. The Manager and Martin advised the Board of the Master Plan and Zoning of the property in a recreational open space district, which would provide additional protection, and give the possibility of a referendum vote on any decision to change the zoning from recreational open space. This would allow future residents to determine if it is to be developed in the future. If you don't do anything the Township Board could sell it and develop it as zoned. It's currently zoned R3, and by your vote last month you would be recommending that it be planned for that low density residential use in the Master Plan.

Pfost clarified: what the Planning Commission's decision was - the recommendation was to revert the land to the underlying zoning. We were doing away with the concept of open space. However, permanent open space is not a future land use designation. That was what we corrected and what we did was the opposite of what we intended.

Pfost said current zoning and future land use is the important consideration.

Ransford said we have no designation and want to protect the property. We should take a step back and reconsider the decision.

Fink asked to remove the airport from the conversation. It is Winstrom Park. There were policy implications on what the Planning Commission's recommendation represented. The Master Plan currently has an open space element. There are multiple open space properties in the Township. Winstrom Park is currently identified in the Master Plan as open space. The Planning Commission made a recommendation to change the park from open space to low density residential. That is contrary to practice and, he believed, the intent of the Planning Commission. If you want to include it in the Master Plan as low density residential you should submit that recommendation to the Township Board for approval. If you wanted to prevent this situation and Master Plan it as a park with no underlying zoning you would be in a difficult position arguing what the Master Plan use would be for the property. When you talk about a municipal piece of property such as this park, he doesn't know of a Planning Commission creating less regulation to developing park property as opposed to more regulation. The Township Board can change the zoning and the Master Plan. There is zoning for public parks. Most are deed-restricted and encumbered. It's not conducive to remove regulation for development. Simply, the Planning Commission wasn't aware of what it was doing. When Martin and he had a conversation with Pfof, they decided to apprise the Planning Commission of what happened and the ramifications for moving forward. He didn't think that the Planning Commission wanted this property zoned as low density residential in the Master Plan.

Garlinghouse asked how the Planning Commission can change its decision.

Pfof said what is important is that the ultimate decision reflects what we want. We didn't protect public space from development in our decision last month. Was that our intent? No it was not, and he was confident the Planning Commissioners would agree. However, there is a process for changing our decision.

Ransford said if we have a zoning district as public space we need to bring it to the people.

DeHaan asked if the Township Board did anything with the Planning Commission's recommendation.

Martin advised that the Planning Commission's recommendation last month occurred the day before the Board meeting, and that the Planning Commission approved the minutes of last month's meeting tonight, so the recommendation in question will go to the Township Board for their review and action tomorrow night unless the Planning Commission directs otherwise tonight. Do you want a correction?

Fink said public property is the problem with the Planning Commission recommendation. He suggested Ransford and Martin look at two separate issues: the existing recommendation to the Township Board on privately held property, and keeping the Master Plan designation of publicly held property, and creating zoning for public owned open space.

DeHaan recommended withdrawing the Planning Commission's recommendation to the Township Board. We then need to analyze all aspects to get it right.

Kleinjans asked for clarification of underlying zoning.

Kleinjans understood there is no zoning for public parks in Park Township. It limits the land to its use is what he has been told.

Pfost said we don't want to encumber public property for schools in the same way as what we can encumber space for parks. We haven't engaged in this discussion.

Martin said once schools swap property you can begin the process of amending the zoning ordinance.

Fink said the critical element to protect public-owned parks is not the Master Plan. The Master Plan can be changed. It's the fact that the property has an underlying park or recreational open space zoning, because in order for the Township Board to change the zoning, it could be subject to a referendum. The public may say we don't want the Winstrom Park to be sold and developed for residential or other use. They can put it on a ballot. There is the protection.

Pfost asked about protecting Ottawa Beach State Park from being sold by the State.

Fink said this is what you did with your decision was to put the State Park in the Master Plan. It's a policy decision. It's not wrong to say we can make it difficult for the State.

Martin said it's a twofold approach: if the property is zoned as public open space and you put it as recreational open space in the Master Plan, then the State would have a difficult time selling that land to prospective buyers, because they would know that it needs to have a zoning amendment to be developable. The Township has the authority under State law to regulate land use. A potential purchaser will look at what it is zoned and what it is Master Planned for the future. They would have to have reasonable assurance they could amend the zoning district, which is based on the Master Plan, for a different use or they won't be interested.

Nestel asked Ransford if there should be changes in what we decided about open space as a result of our review. Should we forget all of that?

Ransford said that review stands. It is just Township owned property that had an added layer as a result of the recommendation made in June. Ransford pointed out that the decision of the Planning Commission remained appropriate for privately owned property, school district owned property, and the like, but the purpose of this discussion is to reapproach the property owned by the Township.

Pfost asked for a straw poll on what the Commissioners felt about rescinding the previous decision.

DeHaan supported pulling back the original proposal. Some parts are okay but we should review what needs to be changed.

Garlinghouse supported pulling back the recommendation.

Ervine agreed and considering the confusion that has resulted some corrections are necessary.

Eade supported rescinding the recommendation as it stands.

Kleinjas agreed, wanted to add new information and look at other parcels too.

Nestel said she was confused and wanted to look at all the properties again.

Pfost asked for guidance from Staff on how to do this in regard to the protection of open space.

Martin said the minutes of this meeting will reflect the decision of the Planning Commission from last month. That will not change. Now if the Planning Commission no longer feels that decision was appropriate, it will need to undo what was done last month and rescind the previous motion of June 10, 2020.

Pfost said he will appear at the Township Board meeting on July 9 to explain the Planning Commission's position. He will also contact Supervisor Hunsberger. Fink supported this.

Martin advised that the motion to rescind the previous motion to move this forward will require a 2/3 vote of the Commissioners.

DeHaan moved, supported by Garlinghouse, to rescind the previous motion from June 10, 2020, regarding the ~~resignation~~ designation of the public open space properties in the Master Plan.

Roll Call Vote:

Garlinghouse, aye; Ervine, aye; Pfost, aye; Nestel, aye; Kleinjas, aye; Eade, aye.

Ayes 7, Nay 0. Motion carried to rescind the original recommendation for modifying the public/open space classification within the Master Plan.

Pfost asked for a motion to direct Staff to correct and clarify the appropriate language in a new draft for the Planning Commission's recommendation to the Township Board for the protection of open space.

DeHaan moved, supported by Ervine, to direct Staff to revise the Master Plan map and clarify the appropriate zoning language in a new draft for the Planning Commission's recommendation to the Township Board for the protection of open space.

Roll Call Vote:

Garlinghouse, aye; Ervine, aye; Pfof, aye; Nestel, aye; Kleinjas, aye; Eade, aye.

Ayes 7, Nays 0. Motion carried to draft a new recommendation for the protection of open space.

Ransford said there will be two documents submitted at the next meeting regarding the issue: a draft for the revised recommendation to the Township Board, and one for the zoning ordinance.

Pfof thanked Staff for bringing this matter to the attention of the Planning Commission.

PUBLIC COMMENT

Pfof opened Public Comment at 9:00 P.M.

Mary Nussbaum has been a resident of Park Township for 25 years. It is her opinion that short term rentals are a problem and disruptive to year-round residents. Their neighborhood has traffic, parking and trash problems with short term rental people. They trespass on private property. This is a business in a residential neighborhood. Is there anything the Planning Commission can do to limit the number of people in these single family and condo homes. Placing limits on the number of beds and occupation times would be a start.

Charles Farmer was also concern about rentals and legality of Township ordinances in allowing the number of people in single family homes. The ordinance should protect the residents who live in the Township year-round. Renters do not follow the existing ordinances.

Pfof closed Public Comment at 9:06 P.M.

ANNOUNCEMENTS

The next Planning Commission meeting date is August 12, 2020.

Ransford and Pfof had suggestions for an NHP meeting for Ottawa Beach. Can the Planning Commission schedule a special meeting on August 1, Saturday, at 10:00 A.M. in an outdoor tent at the Park Township Building. There will be a public hearing at this meeting.

He asked for a motion to approve.

Ervine moved, supported by Kleinjans, to approve the Ottawa Beach special meeting on August 1, 2020 at 10:00 A.M.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

Pfost asked if a planning session should be considered with Staff regarding the short-term rental concerns of property owners. Should this be regulated as a commercial property? The Planning Commission needs to discuss this and what the policy should be.

Garlinghouse asked about regulations controlling short-term rentals.

Martin said the Township Board ultimately has the final say on this. He noted the Michigan Supreme Court ruled this summer with regard to a situation in Spring Lake. Spring Lake was prohibiting short-term rentals based on the argument that a single family residence did not include transitory occupants. The Court of Appeals agreed. The Supreme Court rejected that argument, but said this is short-term rental in the definition of a motel and the zoning ordinance doesn't allow motels in residential zoning districts. The definition of a motel is that of a commercial establishment consisting of a building or group of buildings in the same lot whether detached or connected road offering lodging accommodations and sleeping rooms for payment. Park Township doesn't allow motels in residential zoning districts. You may not have to do anything other than exploring the ordinance in place in shutting down these short-term rentals. Just because we never allowed motels in residential districts, there is no nonconforming status. It doesn't mean you can't regulate it.

Fink agreed but disagreed with regard to the ordinance language in making the regulation clear. Many communities in Michigan have similar ordinances. The ability to regulate is there. Once you begin to rent your property over multiple periods of time you begin to transfer your property from that of residential to commercial under the IRS guidelines. That could be counter to the zoning ordinance. The issue is not whether or not there is the existing language to regulate, but

whether the Planning Commission and the Township Board want to regulate. He, as the Township Manager, has to institute what the Board wants. In his opinion, let's not muddy the water regarding what is already in existence. The Township Board has brought this issue up in the past and it did not gain traction. Look at the policy if you decide to consider changes. We do not currently regulate short-term rentals.

Pfost said this could be addressed in a planning session.

Kleinjans asked if Staff could present the Planning Commission with an analysis of the short-term rental situation in the Township.

Pfost asked how we balance access and property rights with people who abuse privileges. What is a policy we could devise as a Planning Commission to help the residents. Is this important? We have an obligation to the community if there is a concern. We need to consider our options. Perhaps we could plan a planning session in the fall on this topic and invite the Township Attorney and Manager to attend.

DeHaan recommended this topic should be a discussion item for a planning session.

Ervine moved, supported by Eade, to direct Staff to organize a special meeting on short-term rentals at a Planning Commission planning session in September.

Fink noted the Macatawa Park Association has formed a subcommittee to collect data on the short-term rental situation. The Planning Commission should reach out to this group.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

ADJOURNMENT

Ervine moved, supported by Eade, to adjourn the Regular Meeting at 9:42 P.M.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

Respectfully submitted,

Judith R. Hemwall
Recording Secretary
July 11, 2020

Approved:
August 1, 2020